

IN THE UNITED STATES DISTRICT COURT  
FOR THE  
MIDDLE DISTRICT OF PENNSYLVANIA

JERMAINE WEEKS,	:	
	:	
Petitioner	:	
	:	
v.	:	CIVIL NO. 4:CV-15-2211
	:	
CYNTHIA LINK,	:	(Judge Brann)
	:	
Respondent	:	

**MEMORANDUM**

January 7, 2016

**Background**

Jermaine Weeks, an inmate presently confined at the State Correctional Institution, Graterford, Pennsylvania, (SCI-Graterford), filed this pro se habeas corpus petition pursuant to 28 U.S.C. § 2254. Named as Respondent is Superintendent Cynthia Link of SCI-Graterford.

Petitioner seeks federal habeas corpus relief pursuant to § 2254 with respect to his October 19, 2010 conviction of possession of a firearm by a prohibited person following a jury trial in the Court of Common Pleas of Lycoming County, Pennsylvania.

This Court issued an Order on December 1, 2015 which advised Petitioner, in accordance with United States v. Miller, 197 F.3d 644 (3d Cir. 1999) and

Mason v. Meyers, 208 F.3d 414 (3d Cir. 2000), that (1) he could have the petition ruled on as filed; that is, as a § 2254 petition for writ of habeas corpus and heard as such, but lose his ability to file a second or successive petition absent certification by the United States Court of Appeals for the Third Circuit; or (2) withdraw his petition and file one all-inclusive § 2254 petition within the one-year statutory period prescribed by the Antiterrorism Effective Death Penalty Act (“AEDPA”).<sup>1</sup> See Doc. 4. The Order additionally warned Weeks that if he elected to withdraw his instant petition in order to file one all-inclusive petition, the AEDPA’s statute of limitations might bar the filing of any such successive petition.

Accompanying the Order was a Notice of Election form and Petitioner was directed to notify this Court within forty-five (45) days as to how he wished to proceed in this matter.

Weeks submitted an executed Notice of Election form dated December 29, 2015 wherein he notified this Court that he wished to withdraw his instant petition for writ of habeas corpus so that he may file one, all-inclusive petition under 28 U.S.C. § 2254 within the one year-year time limit for filing such a petition.<sup>2</sup> See

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<sup>1</sup> Miller and Mason sought to prevent pro se litigants from unintentionally defaulting federal claims through failure to assert them in a single petition.

<sup>2</sup> Petitioner is forewarned that his new petition would have to be submitted within the one year period of limitation authorized under 28 U.S.C. § 2244(d)(1).

Doc. 6. He also acknowledged that the AEDPA statute of limitations might bar the filing of any such successive petition. See id.

Based upon an application of the standards announced in Miller and Mason to Weeks' announced intention that he does not wish to proceed with his present petition, this Court is precluded from ruling upon his action as filed.

Consequently, since Weeks has expressed that he does not wish to proceed with his action, it will be dismissed without prejudice. An appropriate Order will enter.

BY THE COURT:

s/ Matthew W. Brann  
Matthew W. Brann  
United States District Judge